Pages note 1-25
1-14

App F IX 4

Previous References
Rel 37-15(1-)
Rel 81-25(3-8)
Rel 81-25(1-2)
LR 64-04(1-5)
Letter References
Rel 37-36 & 19

1929-30
(Rel)

File No 260-29
Serial Nos 1-5

GENERAL AND REVENUE SECRETARIAT

Serial Nos Five only

Part B for Parts 1 to 6

SUBJECT

Erection of Buildings in the prohibited area in Dobbs Ferry and Palace Barracks in Belfast

WD 03607—GPB—22 500—2-8 35

Removed

1/36

D38×4

App F III—2]

General and Revenue Secretariat | ML File No 260 of 192 9

	Serial No	
	1	From The Municipal Commissioner Bangalore City Municipality No G.To.-15-2/29-30 Dated the 25/28 States that the Municipal Council at their meeting held on 18th Jan. have approved of the Memo of the then President in the matter of removing the existing restriction for granting licenses for building purposes in areas prohibited under Government Notification No 13 Dated 23 4 68, No 766-8, R 7 55-92 & 2 7 1892 & No 1076/R S M L 81-25-2 & 24 8 2, to afford facilities to the existing house owners to improve & extend their houses or to sell them for Bungalow sites & submits for sanction a Copy of the Council resolution dated with a Copy of the President's No
7C G		
7C A		
B		
		1) The Bangalore City Municipal Council propose that the prohibition of new buildings and extensions of existing buildings made in paragraph 2 of Government Order dated 2nd June 1892 may be
A		

NOTE—Contn sheet

D 3884

App F III—2]

General and Revenue Secretariat | ML File No 260 of 1929

Serial No

removed after reserving a margin of 100 feet from the road running from the Palace South Gate to the Miller Road The President in his memo placed before the Municipal Council explains that there are some bungalows to the North of the Cunningham Road which could be easily extended without causing Congestion and that the removal of the prohibition is necessary to enable the owners of existing houses to improve & extend their houses or to enable them to sell their properties for bungalow sites in Continuation of the bungalows on Cunningham Road

2 The present proposal is practically a repetition of that made in 1925 (with a slight modification) with regard to Dobbspet and Palace Upparhalli Please see notes in ML File 81-25 Secs 1 & 2 put up below In that Connection the Dewan in his minute dated 14 & 27 Considered that the best Course would be to remove

7

NOTE—Contn sheet

WD 066—GPB—30 000—26 7 29

D 3884

(3

App F III—2]

General and Revenue Secretariat | MG File No 260 of 1929

Serial No

the improvement of existing houses but not extensions to them and Orders were issued accordingly. In the letter of 24 & 27 addressed by the Government to the Municipal Commissioner in the matter, the words used are as follows -

Government Consider that the best course in this case would be to permit the improvement of existing unsafe houses while Continuing the restrictions against extensions to them as such extensions would make the locality more Congested and unsanitary. The President interprets that under this order even extensions might be allowed if they do not make the locality more Congested & unsanitary and the present proposal appears to have been based on this interpretation. It is not clear if this interpretation may be accepted, as the instructions issued in the Govt. letter of 24 & 27 referred solely to the case of Dobbspet & Palace

NOTE—Contn sheet

WD 066—GPB—30 000—26 7 29

D 3884

(4

App F III—2]

General and Revenue Secretariat

Rel File No 260 of 1929

Serial No

Rhandallu If the proposal of the Municipal Council is to be viewed with favour, it may perhaps be desirable to call for a sketch of the locality showing clearly the lands in the prohibited area & the buildings exis ting thereon

3) Submitted for orders

Jbs 12 30 AB

4) Ch Secy) 23 4/2/30

5) Information may be obtained as at A & Municipal Commissioner may also be asked to make it convenient to discuss the matter with me in person

mm 15/2

6) [illegible] 18/2

7) Draft sub'd for consideration

Jbs 19/2/30 AB

8) [illegible] 20/2

To the Mun Commr thro the President Bangalore &c &c

RO-26261 & 24-2-30

Calls for a sketch of the locality.

IF SECRETARY 19 FEB 1930

CHIEF SECRETARY 5 FEB 1930

A

2

Normal papers are not favourable [illegible]

NOTE—Contents sheet [illegible]

D388c 886 (5

App F III—2]

General and Revenue Secretariat

File No 260 of 1929

Serial No	
	9) The mun. comr. saw me today. He said he would send the sketch shortly. Please put up the file after the receipt of the sketch. RB 16/8/30 18/8/30
3	From The mil commr, Bangalore thro the Presdt, City mil Council. Letter no 45 dt 16/8/30, forwards a sketch of the city mil 10) The mil Commissioner was asked to forward a sketch of the locality showing clearly the lands in the prohibited area and the buildings thereon. He has sent a sketch, showing the limits of the City and the Bangalore City mil the prohibited area being marked. Submitted with refce to paras 5 & 9 sup. RB 20/8 11) The mun. comr's attention may be invited to the provisions of 24-2 30 and he may be requested to send a new sketch showing the lands in the prohibited area and the buildings existing thereon. 21/8/30 12) Yes 21/8 a.c.

Note—Contn sheet

WD 066—GPS—80 000—26-9-29

B)

General and Reference Secretariat — File No. 260 of 1926

Serial No.

76 (1) Draft subd for approl

2nd 21/8 4J

19) Issue VS 22.8.30.

4 The Hon. Comm. Bangalore by L 1909 D 3 9 30 Returns the sketch sent and asks him to send up a new sketch showing clearly the particulars req

5 From Do - No Q 2098 Q 13/4 dt Forwards a sketch showing clearly the lands comprised in the prohibited area and the buildings existing therein

15) Subd for orders with reference to Chief Secretary's orders in paragraph 5 of the notes supra

Sd 17 10 30 Gen Secy) VS 21 10 30

Please speak RA 24/10/30 VS

Contn Sheet

File No of 193

General and Revenue / Secretariat

[Appx F III—

375 5 6 K 3234

[G R S III—3]

Routine Notes.

[To be used only for notes requisitions etc not intended for permanent record]

GENERAL SECRETARY.
17 FEB 1932
No.

Note slyne mil arms, Byrke
ES-no 720 185 dy 8/12-2-32
on the subject of the erection
of buildings in the prohibited
area specified in ~~[illegible]~~ note no
767-8 N 755-92 dy 2-7-1892

1) A reference was received
on the subject as stated in para
1 of the mil arms note and
further information called for
on the matter was received vide
mil arms letter no ST 98 dy
14-10-1930 the letter was
minted to the Gen Secy on 25-10-

2nd 13/2 (Gen Secy) 16/2

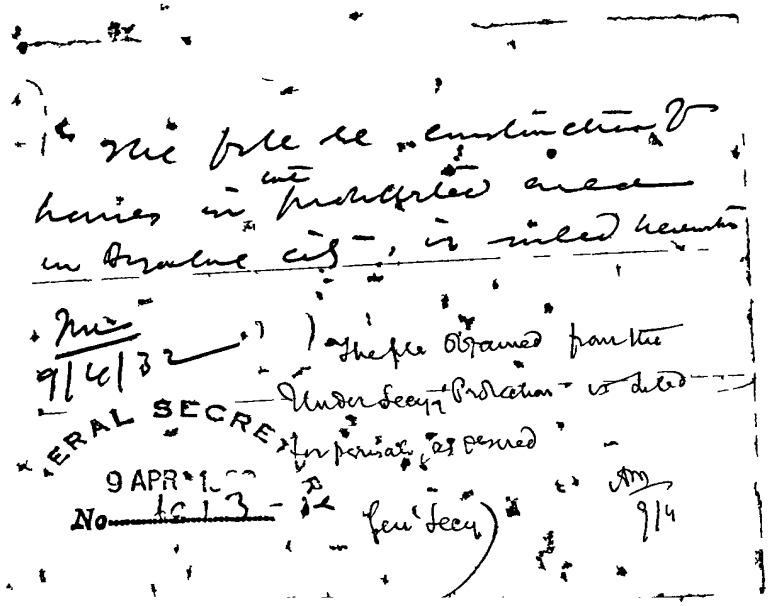
2) Will the AS, PRO, Kilrush
See me—

17/2/32

File No

of 193

General and Revenue Secretariat



General and Revenue Secretariat | File No | of 193

Serial No

2) The Chief Commissioner issued a notification No 13 dated 17th April 1868 reserving a particular area by defining the boundaries in Bangalore City for public purposes and prohibiting the erection of any building thereon without permission of the Government This notification was republished in Notification No 188 dated 24th October 1872 The boundaries scheduled to the notification indicate that the area reserved is the area round the Cubbon Park and the Public Offices On 7th October 1887 the Government passed an order of similar reservation in regard to a second area by defining its boundaries also This corresponds to the area near the Palace comprising Dobb's Pet, Upparahalli, etc On 2nd July 1892 the Government issued a notification republishing the notification of 1872 and notifying for information and strict guidance the order of 7th October 1887

4) Thus in regard to the case of the building under consideration in Upparahalli, we are concerned with the notification of 1892 The building in the case under consideration is within the area prohibited by this notification The principal point for consideration is whether this notification has the force of law

7) It is only after the passing of the Mysore Legislative Council Regulation in 1907 that a special procedure was prescribed for legislation and passing all laws and regulations The sovereign delegated as it were certain of his legislative powers to the

NOTE—Contd Sheet

WD 08563—G PB—50 000—8 7 30

the Legislative Council Prior to 1 O" all powers of legislation were vested in his Highness All laws and regulations are being enacted by his Highness the Maharaja directly There was no particular or special form prescribed for enactment of a law

Law, according to Austin, is the command of the soverign which obliges a person or persons and obliges generally to acts of forbearance of a class (Austin's Jurisprudence, page 96)

The notification of 1882 is in the nature of a command as that emanating from the soverign It obliges persons generally to certain acts of forbearance It has the force of law and can be enforced as such

There is also another authority in support of the view that notifications of this sort have the force of law In 19 Mysore Chief Court Reports, 159, it has been held as follows in regard to a similar notification -

" Now, it is declared in Notification No J-1598/Cts 75-06-2, dated the 12th December 1906, that the Courts of the State shall not, except where specially authorised by Government to do so (- and there is no allegation of any such special authority in the present case -), exercise jurisdiction over a native officer or soldier of the Indian Army who, while not on leave, commits any kind of offence within the State This Notification does not purport to have been issued by the Government of Mysore in virtue of an enabling provision contained in any enactment, but has emanated directly from His Highness the Maharaja of Mysore, apparently as the soverign authority for the State and the source of all legislative power therein Consequently there is no question here as to the legality or otherwise of such a Notification, and it would not be competent to any

General and Revenue Secretariat | File No of 193

Serial No

any of the State courts to raise such a question "

There can therefore be no doubt that the notification of 1882 has the force of law

There is nothing in the Municipal Regulation passed subsequently which directly or indirectly repeals this notification

The next question for consideration is the manner in which a breach of this order can be dealt with There is no specific penalty attached in the notification itself to a breach of the order contained therein But the notification itself directs that ' all Government and Municipal officers will be required to strictly enforce the conditions of this notification '

Disobedience of this order cannot be construed to be an offence under section 188 of the Penal Code since that section relates only to orders promulgated by a public servant Since Government officers are required to strictly enforce the conditions of the notification, the Deputy Commissioner may prohibit by an order in pursuance of this notification persons who intend to build or extend an already existing building in the prohibited area Whenever in the prohibited area any person raises a building in contravention of such order of the Deputy Commissioner, that would come under section 188 of the Penal Code This would be useful only as a preventive measure

A difficulty arises in the present case in as much as the party has already put up a building There are two courses open

NOTE—Co Sheet

(1 Either the Municipal officers or the Deputy Commissioner may sue for a mandatory injunction under section 5 of the Specific Relief Act for prevention of the breach of this notification and also to compel the party to pull down the building which he has erected contrary to the notification

(2) Since all Government and Municipal Officers are required to enforce the conditions of this notification, they have the power to enforce obedience to this notification and take all necessary consequential measures for such enforcement If a party, without the knowledge of the authorities or ignoring their directions, should put up a building, the officers can pull down the building to enforce the conditions of this notification If the officers are sued for damages, they can plead in defence that their act was lawful and was authorised by the notification, and as such it was not a wrong

From the records it appears that this plot of the building site was for a long time not an agricultural land If it is agricultural land, the Deputy Commissioner would have refused permission for its conversion to a building site

The foregoing is the consideration of the purely legal aspect It will be a question for decision of the authorities concerned if after consideration of all other aspects of the case it is convenient and expedient to pull down a building which has been put up unless it is very obnoxious For the future, it is better to take prompt action in the initial stages itself when a building is attempted to be erected by preventing it from being so executed, if necessary by force

Serial No

(General Secretary)

2 In its Meeting held on 16th May 1925 the Bangalore City Municipal Council resolved that Government be requested to revoke the 3 notifications dated the 23rd April 1868, 24th October 1872 and 2nd July 1892 as they work great hardship on the residents of Dobspet, and Palace Upparahalli & villages within the City limits - This resolution was communicated for orders with the Municipal Commissioner's letter No G 10/25-26 dated the 27th July 1925 An attempt was made in Municipal File 81-25 Sls 1-2 to find out the legal basis of these notifications but finally after an inspection of the locality by the Dewan, orders were passed on 24th August 1927 declining to revoke or modify the notifications but directing the Municipal Commissioner to submit proposals regarding the improvement of the locality by means of acquisitions of all thatched houses and some pucca ones at Upparahalli It was also intimated that the notifications did not prohibit the improvement of existing pucca houses but that it was the extension of those houses that were restricted, as otherwise the locality would become more congested and insanitary

3 In pursuance of these orders the Municipal Commissioner submitted with his letter of 17th October 1928 a scheme for improvement of the locality costing about Rs 25,851/- which the Municipal Council want the Government to finance

NOTE—Contn Sheet

finance Government declined to do this in their letter No L 5794- dated the 31st June 1930

In the meanwhile the then President Mr C Pachia prepared a memo on 25th December 1929, recommending that a margin of 100 feet from the road running from the Palace south gate to Siller Road may be left and that the prohibition regarding new constructions or extensions of existing buildings be removed, the owners being permitted to improve or extend their houses according to licen e rules under the Municipal regulation The Municipal ~~Unit's~~ Council's Meeting of 18th January 1930 approved of this memo and the same was submitted to Government for sanction with the Municipal Commissiorer's letter of 25th January 1930

Final orders on these have not yet been passed There appears to have been some discussion between the Municipal Commissioner and the General Secretary in the matter, but the result of those discussions is not apparent from the papers in the file

Meanwhile, a concrete case arose One Papiah constructed a structure in 1929 though license was refused an on prosecution he demolished the structure in 1930 at his ~~one~~ own cost He again applied for a license on 11th November 1930 and he was informed by the Municipality on 26th December 1930 that the matter had been referred to Government But in April 1931 he has commenced constructing the house and though notices were issued to demolish the unauthorised structure he has not cared to comply

Serial No

comply with them

On the Municipal authorities threatening to demolish the buildings themselves, the party had a Lawyer's notice issued to the Municipality In the Municipal Council itself Mr [illegible] Ramunarthanpa moved a proposition that license application for building be not refused on the ground that the site on which they intend building is within what is called the prohibited area as it is ultra vires of the Municipality to refuse licenses on that ground This proposition was referred to the Bye-law Committee and they have opined that the notifications not having the force of law cannot deprive owners of private properties in the area of their right to put their properties to legitimate and lawful use The Committee further say that even if the notifications have the force of law the Municipality cannot refuse building license on the ground that the land on which the building is to be constructed is within the prohibited area and that if a building is constructed in spite of a refusal to grant the license no action can be taken under Section 9(against the person constructing the building as the refusal to grant a license is ultra vires

The Municipal Council in its Meeting of

NOTE Cont Sheet

File No of 193 | General and Revenue Secretariat

of 23rd January 1932 resolved that the question be deferred and the file be sent unofficially to Government for obtaining their views in the matter The Municipal Commissioner has accordingly submitted the file to the General Secretary

PUD II

2. The Under Secretary's note (supra) of 3rd May 1932 discusses the question as to the legality or otherwise of the notifications and shows clearly that they must be deemed to have the force of law The note also indicates the procedure to be adopted in enforcing the law

3. Any action taken by the Municipal Officer in pursuance of the notification would however be not actior under the Municipal Regulation and the Municipal Council cannot therefore have any objection to such action being taken

4. There is however another aspect of the question which requires some further consideration The Bye-law Committee say that even if the notification has the force of the law, the Municipality have no power to refuse a building license on the ground that the construction would contravene the conditions of the notifications It is no doubt true that Section 96, Clause (2) of the Municipal Regulation does not expressly empower the Municipal Council to pass an order refusing permanently the grant of a building license This is because the Section presupposes that the persons applying for a

General and Revenue Secretariat | File No | of 193

Serial No

a license, has apart from the Municipal Regulations a legal right to construct the building proposed The Section does not contemplate cases in which such right is taken away by some other law in force It is therefore clear that in cases in which the application is to erect something which is not permissible under any other law in force for the time being, the Municipal Council has an inherent power to refuse the grant of a license, as otherwise, the Council would be guilty of permitting a wrong being committed under its authority (Vide Cunning District Municipal Act page 330) Any other interpretation of Section 96 would lead to absurdity and it must therefore be held that the Bangalore City Municipal Council has power to refuse to grant permission to the erection of buildings in the prohibited area Such an order may be deemed to be a legal order under Section 96 and consequently any building constructed in contravention of such an order would entail the consequences mentioned in clauses (5) and (6) Section 96

If it is decided to furnish the Municipal Council with the views of the Government in the matter at this stage then they may be informed that Government are of opinion that the notification in question has the force of law and that the Municipal Officers are bound under the terms of the notification to enforce its conditions They

NOTE—Co to Shee

17

L 3234 3753/P

File No of 193 | General and Revenue Secretariat

They may also be told that building licenses in contravention of the notification cannot be granted by the Municipal Council under Section 96 and that any corstruction made after refusal of a license would entail the consequences mentioned in clauses (5) and (6) of Section 96 of the Municipal Regulation The Deputy Commissioner, Bangalore &&& and the Municipal Commissioner may be informed that nothwithstanding anything that the Municipal Council may do in the matter, it is their duty to see that the conditions of the notification are enforced and that it is necessary to see that prompt action is taken to prevent the disobedience of the directions contained in the said notification

326/Law

This will dispose of the unofficial reference made by the Municipal Comissioner on 12th February 1932 There will still remain the Municipal Commissiorer's letter of the 25th ~~June~~ Jan 1930 ~~in the Index file~~ on which final orders have to be passed.

PUD II

PUD I

The Municipal Commissioner's proposal contained in his letter of 25th January 1930 being very much oppo ed to the Dewan's orders of the 14th August 1927 cannot perhaps be approved, in which case the Municipality has to work out a scheme in accordance with the Dewan's orders

Submitted for orders The two papers under disposal are marked PUD I & PUD II

Gen Secy)

30/5/32

Construction of buildings in [redacted] prohibited area 375(3) -2-4 19

General and Revenue Secretariat | 2nd File No 260 of 1939 | [App F III—2

Serial No

Ltr

The above note of the Asst Secy who [illegible] up after discussion with me and represents my views also

Hqrs 31/5/32

II Member) mp 1/6

OFFICE OF THE SECRETARY 1 JUNE 1932 No. 1092

47) Papers [illegible] Please put up drafts awaiting for consideration

ks 16/6/32

TYPING SECTION 25 JUN 1932 GENL & REV SECTT

Rq 16/6 Sd

dm 17/6

48

2 drafts read for consideration

Rq 22/6 DS

Please get the two drafts typed on receipt

dm 25/6

2 Typed drafts read

Rq 25/6 DS (Sent Secy)

dm 27/6

II nd member

Rq 28/6 (J) dm 28/6

GENERAL SECRETARY 28 JUN 19 No.

OFFICE OF THE SECRETARY SIMLA 29 JUN 32 No. 1160

51) I wish to discuss this with the Secy

ks 4/7/32

Rq 4/7/32

Name—Contn Sheet

File No of 193

General and Revenue Secretariat

Erection of buildings in the prohibited area in Bangalore

The Notifications of 1872 and 1887 prohibited in certain areas in Bangalore specified therein the erection of new buildings of any kind whatsoever -- (including extension of existing buildings), the sinking of wells or any extensive excavation for any purpose whatsoever

In Government Order No 767-8/R P 55-92, dated 2nd July 1892, these prohibitions were repeated and it was directed --

(1) that on lands assigned for public purposes, whether within or without the boundaries prescribed in the said notifications, no new buildings or extension of existing buildings shall be erected without the previous sanction of Government, and

(2) that all Government and Municipal Officers shall strictly enforce the above condition

The localities known as Dobbspet and Palace Upparahalli came within the areas referred to, and the applications for licenses from the inhabitants of these localities to rebuild their insanitary and dilapidated houses having had to be rejected under the above orders, the Municipal Council recommended in July 1925 that as the orders worked great hardship on the residents of the localities, the Government might revoke them In reply the Municipal Commissioner was informed on 24th August 1927, that the Notifications needed no modification as they imposed no

1520

restriction on the improvement of existing houses, but only on the erection of new buildings and extension of existing buildings It was also suggested -

(1) that the improvement of the existing pucca houses might be permitted, while continuing ~~the restrictions~~ the restrictions against their extension

(2) that all thatched houses may be acquired as also some pucca -- houses at Upparahalli which are too close to the main road,

(3) that all congested areas should be opened out and lanes widened thus improving the sanitation of the place and

(4) that the dispossed people might be allotted sites at Guttahalli if they were prepared to go there,

and proposals in the light of the above were called for from the Municipal Council

A scheme was accordingly prepared by the Municipal Council for acquiring properties in Dobbspet and Palace Upparahalli to remove congestion in the locality at a cost of Rs 19,557 and for improving the roads and drains at a cost of Rs 6,300/-, and it was sent to Government in October 1928 for sanction and for financing it in full The Municipal Council were told that as the Government were making a special grant for public improvement every year they could not sanction a grant for this purpose also This was on 31st January 1930

I

J

12

PwD I

Just at the same time the President of the Municipal Council, Mr Nachia, -- suggested the removal of the prohibition in question and recommended that a margin of 100 feet from the road running from the Palace South Gate to Miller Road may be left so as to enable owners of existing -- houses to improve and extend their houses as per license ~~rates~~ rules or to enable their -- sale for Bungalow sites in continuation of the Bungalows in Cunningham Road, and the resolution of the Municipal Council approving of these suggestions was sent to Government on 28th January 1930 No orders have been passed on these proposals yet

PwD II

In the meanwhile the legality of the orders of prohibition itself was questioned One Papiah was reported to have constructed a building on No 3 Palace Upparahalli in 1929 without a license and on his being -- prosecuted under the Municipal Regulation, he demolished the building in April 1930 at his own cost Again in April 1931, he commenced constructing a house on the same land and in spite of the notice issued to him he did not demolish the unauthorised construction

The Bye-law Committee of the Municipal Council, to whom the question of the legality of the orders was referred by the Council, are said to be of the opinion that the Notifications have not the force of legislative enactments or -- rules and cannot deprive owners of private properties in the said area of their right to put the properties to legitimate an --

lawful use and that even assuming the Notifications to be valid, there is nothing in the Municipal Regulation to enable the Municipality to refuse the grant of a - license on the ground that the land on which the building is to be constructed is within the prohibited area or to take action under Section 96 of the Municipal Regulation in respect of a building put up in spite of the refusal ~~x~~ to grant a license

The Municipal Commissioner wrote to Government in February last that before accepting the above opinion of the Bye-law Committee the Municipal Council -- would like to have unofficially the views of Government in the matter

Legal opinion on the point has been recorded both ~~xkx~~ by the Under Secretary Protection Branch and the Assistant -- Secretary, Law Section and it has been held that the Notifications have the -- force of law and should be given effect to by Government and the Municipal -- Officers

Drafts are accordingly submitted for consideration

(8 23

General and Revenue Secretariat | File No. | of 193

GENERAL SEC

Serial No

2 & 3

L Sec

18th July 1932

GOVT. ADVOCATE'S OFFICE 18 MAY 1932 BANGALORE

D 1007 72/32-33
8/18/32

D 1007 30/32-33
8/22/32

Forwarded with Compliments & enclosures to the Government Advocate for favour of opinion vide cover

By Order
Asst. Secretary
For General Secretary to Govt

18 7 32

Returned with compliments

I agree with the opinion of the Under Secretary that the Notifications in question emanating from His Highness have the force of law and can be enforced as such by Government The decision reported in 19, Mysore Chief Court Reports, 139, as also the case in 9, Mysore Chief Court Reports 110, strongly support that position The Government can, therefore, prevent the owners of lands there from erecting any buildings without the permission of Government The only provision of the Municipal Regulation which entitles the Council to refuse license for building purposes is section 96, and according to that section it has a restricted right and cannot absolutely refuse a license The observations on page 328 of Cumming's book on the Bombay District Municipalities Act, based as it is on the opinion of the Judges in the case reported in I L R 27, Bombay, 221, go to show that the Municipality 'cannot absolutely prohibit any proposed erection on private land' The observations at page 330 referred to by the Assistant Secretary goes, I think, a bit too far I am, therefore, of opinion that the Municipality cannot refuse a license on that ground

How

NOTL—Contn Sheet

WD 70—GBPM—60 000—13 8 31

24

1766/32 p

File No of 193 | General and Revenue Secretariat

How to enforce the provisions of the Notifications is a difficult matter since no penalty is prescribed thereunder The best course seems to be what is suggested by the Under Secretary viz , to sue the party in time and obtain an injunction and have the building ~~party~~ demolished The other remedy suggested, viz , that the proper authorities may issue orders under the notifications to the persons concerned when an attempt is made to put up a structure in the prohibited area and that if it is attempted to be violated, to lodge a prosecution under section 188 of the Indian Penal Code would be a doubtful remedy, as it may be difficult to make out, as required by the section, that the disobedience to the order on the part of the owner causes or tends to cause (1) obstruction, annoyance or injury or risk of it to any person lawfully employed, or (2) danger to human life health or safety

These difficulties may be easily avoided by making suitable alterations in the new Regulation

Government Advocate
22-9-1932

H

GENERAL SECRETARIAT
14 OCT 1932
No.

This has been done, Thank
RS
3/10/32

The Gen Secy wants to know if the necessary amendment has been made in the City Rents Bill also —
C&G Br)
Mr D Satyanarayana Pleader
20/10
20/10

The amendment as made in the City Rents Bill

Chief Secy)
Asst 22/9
Ag Legal, Please speak
RS
3/10/32
3/10

Gen Secy)
12/10/32

Asstt Secy to Govt
24/10/32

Asstt Secy to Govt
Legislative Department
23/11

Serial No

1

Thomas Sankey
Mr H V R* for leave
Mem Supn
16/11/33

QRR

Gen file)

16/11/33

In view of the provision we are making on behalf in the new bill, no further action called for

RJ
23/11/33

Provision has been made in Sec 116 of the new Municipalities Bill so action appears to be called for at present. However this file will be kept in view till the bill is passed into law at the next session of the Legislature.

Resubd for orders

MSM
30/11/33

This file may be recorded & put up as refd file in 3109 & 5962

28/12/33

side reference to the bill put up

from CS

27/1/33

B bill the 1933 Bill

Dec 1933

NOTE—Contn Sheet

WD 70—GBPM—60 000—13 8 31

File No of 193

General and Revenue Secretariat

No G To 152/29-30
Encs 5 orig

CITY MUNICIPAL OFFICE
Bangalore City Dated 25th Jan 1930.
& REV Sect

GEN 3884
29 JAN 1930
L S & BRANCH

CHIEF SECRETARY 9 JAN 1930

FROM
C MACHIA, I C S, B A
Municipal Commissioner,
CITY MUNICIPALITY
BANGALORE CITY

Mc 260-29
Ja 1

To
N Madhava Rao, Esq., B A, B L,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore

Sir,

I have the honor to state that the Municipal Council at their meeting held on 16th January 1930 have approved of the memo of the then President in the matter of removing the existing restrictions for granting licenses for building purposes in the areas prohibited under Government Notifications, No 13 dated 23rd April 1868, No 766-C/R F 55-92 dated 2nd July 1892 and No 1076/R S M L 81-25-2 dated 24th August 1927 to afford facilities to the existing house owners to improve and extend their houses or to sell them for Bungalow sites

A copy of the said Council resolution together with a copy of the President's note are submitted to Government for favour of sanction

I have the honour to be,
Sir,
Your most obedient servant,

J. Machia
Municipal Commissioner

Forwarded with compliments,

P Subbarayudu
Honorary President

SM

PROCEEDINGS OF AN ADJOURNED MEETING OF THE CITY MUNICIPAL COUNCIL, BANGALORE, HELD ON SATURDAY THE 18TH JANUARY 1930 AT 12 NOON IN THE COUNCIL CHAMBER

PRESENT

P Subbarama Chetty, Esq., (Hon President)

COUNCILLORS.

1 Mr S K Venkataranganangar, B A, LL B,
2 " Belur Srinivasiengar, B A, B L,
3 " W H Hanumanthappa,
4 " Ramlal Thiwari,
5 " B K Garudachar,
6 " M C Chicknanjundappa,
7 " K Srikantiah,
8 " D Gopalakrishna Rao,
9 " C N Narasinga Rao, B A, B L,
10 Rao Bahadur Dr C B Rama Rao, L D,
11 Mr A Madhaviengar, B A,
12 " T S Raghavachar, L C E,
13 " N Balakrishniah, B A, LL B,
14 " V Vajpey,
15 " J R Isaac, B A, M B E,
16 " Moyan,
17 " Desmukh S Govinda Rao,
18 Capt Y V Iyya,
19 Mr B Kempanna,
20 " Saligram Narayana Rao,
21 " D Venkataramanappa

ABSENT

1 Mr S M M Razvi,
2 " Hosakote Bnadrappa,
3 " C K Hutchappa,
4 " G Siddayeerappa,
5 Mr M Muniswamy,
6 Khan Bahadur Mohamed Abbas Khan,
7 Mr Syed Abdul Khader,
8 " Chickmunisaymisa

---

18 To consider President's memo in the matter of removing the existing restrictions for granting licenses in the prohibited - under Government Notifications Nos 13 dated 23-4-1868, No 766-8/7 F 55-92 dated 2-7-1892 and No 1076/R S M L 81-25-2 dated 24-8-1927 to afford facilities to the existing house owners to improve and extend their houses or to sell them to Bungalow sites

Resolution --- Approved

Sd- P Subbarama Chetty
Hon President

Copy"

For Municipal Commissioner

SM

Office of the City Municipality,
Bangalore, Dated 25th Dec 29

M e m o

I append copies of Notification No 13 dated 23rd April 1868 and Govt Proceedings No 767-8/R F 55-92 dated 2nd July 1892 and letter No L 1076/M1 81-25-2 dated 24th August 1927 and to state that they relate among other areas to the prohibition of buildings in Palace Upparahalli

In para 2 of Govt Proceedings No 767 erection of new buildings of any kind whatsoever (including extensions of existing buildings is prohibited within the bounday) lines as follows ---

From the Madras Railway level crossing at the Palace South gate along the Madras Railway boundary to where it meets Miller's Road, thence along Miller's road to where it meets Cunningham Road, thence along Cunningham road to where it meets the Avenue road and thence along the Avenue Road to the Madras Railway level crossing at the Palace South gate

This was later on modified in General and Revenue Secretary's letter No L 1076/M1 81-25-2 dated 24th August 1927, probably with a view to give relief to owners of existing houses in the said area and such owners were allowed to improve existing pucca buildings while continuing restrictions against extensions as such extensions would make the locality more congested and insanitary According to this, even extensions might be allowed if they do not make the locality more congested and insanitary

In regard to these restrictions, I may be allowed to state that the purpose for which these prohibitions were imposed is not apparent from the proceedings though at present it may be presumed that these prohibitions might have been found necessary as the locality to which it referred was in closeproximity to the Palace and above Miller tank It may also be pointed out

that

that to the north of Cunningham Road, there are a line of bungalows which could be easily extended without causing congestion

As regards the Palace a margin of 100 feet from the road running from the Palace South Gate to Miller Road may be left and the prohibition removed to enable owners of existing houses to improve and extend their houses as per license rules or to enable these to sell them for bungalow sites in continuation of the bungalows in Cunningham Road

Sd --C. Machia,
President

"Copy

For Municipal Commissioner.

SM

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE, (REVENUE AND ACCOUNTS)

Dated 2nd July 1892

-----oOo-----

Read --

Correspondence ending with docket No 1013 dated -- 10th March 1892 from the Deputy Commissioner, Bangalore District, regarding the localities in Bangalore City, where house building is prohibited

---

No 767-8/R F 55-92 dated, Bangalore, 2nd July 1892

ORDER THEREON --- The Government of His Highness the Maharaja ~~xx~~ resolve to issue the following notification on the subject of the Deputy Commissioner's communication above cited

NOTIFICATION

1 In republishing hereunder for general information and -- strict guidance, the late Chief Commissioner's Notification No 188 dated 24th October 1872, it is hereby notified for the information of all concerned that the boundary line within which the erection of any building, the sinking of wells or any extensive excavation for any purpose whatsoever, is prohibited by the aforesaid Notification, is as follows ---

From the Police Station near Yelhanka gate of the City -- along the Pete Road up to the Civil and Military Station boundary stone, XII, and thence along the Civil and Military Station boundary passing along portions of pete, St Mark's and Sidney Roads, up to Civil and Military Station boundary stone XV, from Civil and -- Military Station boundary stone XV along Sidney Road to Cenotaph near the Alsur Gate of the City from the said Cenotaph to the Police Station near the Yelhanka Gate of the City

II It is further hereby notified for general information ~~xx~~ and strict guidance that by orders of Government dated the 7th

whatsoever (including extensions of existing buildings) is prohibited within the area enclosed by a boundary line as follows -

'From the Madras Railway level crossing at the Palace -- South Gate along the Madras Railway boundary to where it -- meets Miller's Road, thence along Miller's Road to where it meets Cunningham Road, thence along Cunningham Road to where it meets the Avenue Road, and thence along the Avenue Road to the Madras Railway level crossing at the Palace South -- Gate "

III On lands assigned for public purposes, whether within or without the boundaries described in the preceeding paragraphs, no new buildings or extensions of existing ones shall be erected without the express previous sanction of the Government

IV All Government and Municipal Officers are hereby required strictly to enforce the conditions of this Notification

Sd T Ananda Rao,
Chief Secretary

Copy

For Municipal Commissioner

SM

5

NOTIFICATION BY THE CHIEF COMMISSIONER OF MYSORE

No 188, dated 24th October 1872

The following Notification of the Chief Commissioner, defining the boundaries of the ground reserved for public purposes near the Government Offices and the Division Cutcherry at Bangalore, is republished for general information and strict - guidance ---

NOTIFICATION NO 13 DATED 23RD APRIL 1868

"The following is a description of the boundaries of that portion of ground in the vicinity of Bangalore, which has been reserved for public purposes, and on which the Commissioner has prohibited ~~xx~~ the erection of any building without distinct -- permission, to be obtained under a grant from the Mysore -- Government "

"The sinking of wells, or any extensive excavation for any purpose whatever within the area referred to, are also prohibited without permission having been previously obtained "

BOUNDARIES

* On the North	From the Police Tanna in the High Ground by the Central Jail to the Superintendent's Cutcherry
" On the West	From the Superintendent's Cutcherry to the Cenotaph
" On the South	From the Cenotaph to the Police Tanna at Jammincherri
" On the East	From the Police Tanna at Jammincherri along the boundary of Military limits to the -- Commissioner's compound, and thence to the Police Tanna on the High Ground

'By Order'
Sd J Puckle,
Offg Secretary

Sd T Ananda Row,
Chief Secretary

"C o p y

For Municipal Commissioner

SM

b

Government of His Highness the Maharaja of Mysore, General and Revenue Secretariat, Bangalore, dated the 24th August 1927

No L 1076/M1 81-25-2

From

R Ranga Rao, Esq , B A B L ,
General Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore

To

T Govinda Rao, Esq ,
Municipal Commissioner,
Bangalore City

Sir,

I am directed to invite reference to your letter No C 1 of 1925-26 dated 27th July 1925, proposing that the restriction on the buildings of new houses or extension of the existing ones on the localities known as Dobspet and Palace Upparahally in Bangalore City, laid down in the Chief Commissioner's Notifications dated 23rd April 1868 and 24th October 1872 and in a Government Notification dated the 2nd July 1892 be removed Government consider that the best course in this case would be to permit the improvement of existing pucca houses while continuing restriction against extensions to them, as such extensions would make the locality more congested and insanitary All thatched houses in the localities may be acquired as also some pucca ones at Upparahalli which are too close to the main road The sanitation of the place should be improved as far as possible by opening out all congested areas and widening lanes where necessary without however any attempt to lay out the locality on a new plan The people who are dispossessed of their houses by acquisition may be allotted sites at Cuttahalli, if they are prepared to go and settle there

I am to request you to kindly submit proposals in the light of the above observations very early for the approval of Government The Notifications referred to in your letter need no modification as they impose no restriction on the improvement of existing houses but only on the erection of new buildings extensions of existing buildings

I have the honour to be,
Sir,
Your most obedient servant,

Copy

3d R Ranga Rao,
Genl Secretary to Govt

Appendix F G—1

SUBJECT

Diary No of letter replied to 3884

General and Revenue Secretariat

( )

the 192

Date of issue 24-2-30

Signed by [illegible]

List of enclosures

Copied by [illegible]

Examined by

Section ml

File No 260-29

Serial No 2

No L 6261

To

The ml-Commr The
the President Bangalore Cy
Municipal Council

Sir

With reference to
your letter no G-80 152
29-30
dy the 25th/28th Jan 1930
~~soliciting Govt sanction to~~
~~the resolution of the Council~~
in the matter of removing
the existing restrictions for
granting licenses in the
prohibited areas in
Civil Notns Nos 13 dy 23 4
1868, No 766-8/R 255-92
dy 2 7 92 & No 1076/R 5
T L 81-25-2 dy 24 8 27
~~& offering for sale trees to~~

over

WD 068—GPB—20 000—1 8 29

In affording facilities to the existing horse owners to improve & extend their houses or to sell them to Bungalow sites, I am directed to request you to be so good as to forward to this Office a Sketch of the locality showing clearly the lands in the prohibited area & the buildings existing thereon.

~~You will also~~ It is also requested that the Municipality may ~~also request you to be so good as to~~ make it convenient to discuss the matter with the Chief Secretary in person.

I have etc,

For Chief Secy: to Govt

19/12/30

Ml 260-29-3

CITY MUNICIPAL OFFICE

No G To 45
Encl one Sketch

Bangalore City Dated 15th Aug 1930

L 8814

FROM

C MACHIA ESQ, B A,
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

R Ranga Rao, Esq, B A, B L, L
General Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore

Sir,

With reference to your letter No L 6261/Ml 260-29-2 dated 24th February 1930 I have the honor to forward herewith a× sketch of the locality (marked I in blue pencil and painted yellow) showing the lands in the prohibited area

There are 64 houses in Dobspet, in Chickka Upparahalli 54 and in Dodda Upparahalli 70

I have the honour to be,
Sir,
Your most obedient servant,

Machia
Municipal Commissioner

Forwarded with compliments,

Honorary President

× (To be kindly returned)

SM

Appendix F G—1

SUBJECT

Section ME

File No 260 - 29

Serial No 4

No L 1909 Encl-Sketch.

Diary No of letter replied to SL 3

General and Revenue Secretariat

( )

the *193*

To The ME Comm. Bdy Mile thro the Dist-

-ct Mr,

I am directed to return herewith the sketch map showing the limits of the A Tm Station and the Bangalore City Mile ties rec'd with your letter no G Do 45 Dt 16 & 30 and to request you to be so good as to forward a new sketch showing clearly the lands comprised in the Prohibited area

[over

Date of issue 3/9/30

Signed by Mr. V S Scott

List of enclosures

Copied by

Examined by

WD 02559—GPB—25,000—25-6-30

and the buildings existing
thereon as desired in this
office letter no L 6261/ME 200-29-2
Dy 24 2 30

I have &c

22.8 30

for Gen Secy to Govt

21/8/30

Ml 260-29-5

CITY MUNICIPAL OFFICE

Bangalore City, Dated 13th Oct 1930

FROM

C MACHIA, ESQ, B A,
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

R Ranga Rao, Esq, B A, B L,
General Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore

Sir,

With reference to your letter No L 1909/Ml 260-29-4 dated 3rd September 1930 requesting for a new sketch showing the limits of the C & M Station and the Bangalore City Municipality with certain particulars, I have the honour to forward herewith a sketch showing clearly the lands comprised in the prohibited area and the buildings existing thereon as desired in your letter No L 6261/Ml 260-29-2 dated 24th February 1930

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments,

Honorary President

SM

13

G.O. 185 City Municipal Office,
Encl Entire file with plans 12 Bangalore, 8th February 1932

GENERAL SECRETARY
13 FEB 1932
No.

13/2/32

L 8 G Bdkull L 3234

In their notification No 767-8 R F 55-92 dated 2nd July 1892 Government among other things notified for general information and strict guidance that by Orders of Government dated 7-10-1887 the erection of new buildings of any kind whatsoever including extensions of existing buildings is prohibited within the area included by a boundary line as follows

"From the Madras Railway level crossing at the Palace South Gate along Madras Railway boundary to where it meets Miller's road, thence along Miller's road to where it meets Cunningham Road thence along Cunningham road to where it meets the Avenue Road, and thence along the Avenue Road to the Madras Railway level crossing at the Palace Gate

There are the villages Upparahalli and Dobspet situated within the boundaries described above, On the reference from Mr T Govinda Rao Municipal Commissioner proposing that the restrictions on the buildings of new houses or extension of the existing ones in the said locality be removed, ~~xxxx~~ Government in their order No L 1076 Ml 81-25-2 dated 24th August 1927 considered that the best course in this case would be to permit the improvement of existing pucca houses while continuing the restrictions against extensions to them as such extensions would make the locality more congested and more insanitary They also directed that all thatched huts in the locality may be acquired as also some pucca ones at Upparahalli which

which are two close to the main road Mr C Machia wrote again to Government on 28th January 1930 forwarding a resolution of the Municipal Council approving of the memo prepared by him in the matter of removing the restrictions on granting licenses for building purposes in the prohibited area No orders have yet been received on this letter though the information called for in Chief Secretary's letter No L 6261 M1 260-29-2 dated 24-2-1930 has been furnished

The legality of the prohibition is now being questioned One D Papiah applied for a license to construct a building on No 3 Palace Upparahalli which was refused as it was included in the prohibited area close to the main road Inspite of this he erected a building and on prosecuting him under the Municipal Regulation he demolished the building in 1930 at his own cost and removed all the materials Again in April 1931 the same Papiah commenced constructing a house on the same land probably under legal advise Notices were issued to him to demolish the unauthorised construction but he has not complied with the notices

3 Mr W H Hanumantaopa one of the Municipal Councillors moved a proposition that license applications for building be not refused on the ground that the site on which they intend building is within what is called the prohibited area as it is ultra vires of the Municipality to refuse licenses on that ground The matter was referred to the Bye-Law Committee and they have submitted the following opinion to the Council, Viz "That the notifications have not the force of legislative enactments or rules and have not the force of Law or

15

and cannot operate xxx to deprive owners of private properties in the said area of their right to put xx the said properties to legitimate and lawful use, and further assuming the said notifications to be valid there is nothing in the Municipal Regulation to enable the Municipality to refuse to grant a license on the ground that the land on which the building is to be constructed is within the prohibited area or to take action under Section 96 of the MunicipalRegulation in respect of ~~structure~~ Such a building irsnite of refusal to grant a license

Before accepting this view of the Bye-Law Committee the Council would be glad to have unofficially the views of Government in the matter

The file is therefore herewith submitted

(Invited)

Municipal Commissioner 12 2 192.

(General Secretary to Govt)